

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW
OAL DOCKET NO. EWR 899-82

190732



IN THE MATTER OF)
)
KUEHNE CHEMICAL COMPANY)

RECEIVED
STATE OF N.J.
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BRIEF ON BEHALF OF STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
DIVISION OF WATER RESOURCES, IN OPPOSITION
TO MOTION FOR PARTIAL SUMMARY JUDGMENT

IRWIN I. KIMMELMAN
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Attorney for State of New Jersey
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Of Counsel and on the Brief

STATEMENT OF FACTS

The federal Clean Water Act, 33 U.S.C. §1251, et seq. was enacted to "restore and maintain the chemical, physical and biological integrity of the Nation's waters." With that end in mind, discharge of any pollutants into the Nation's waters or into any location which might lead to entry of the pollutant into the Nation's waters, is prohibited except in compliance with the law.

10 33 U.S.C. §1311. Under 33 U.S.C. §1342, the National Pollutant Discharge Elimination System ("NPDES") is established, pursuant to which all discharges that are not specifically exempted must be made in accordance with a NPDES permit, which sets out the allowable discharge limitations for all relevant substances.

20 Since 1982, the issuance of NPDES discharge permits in New Jersey has been the direct province of the New Jersey Department of Environmental Protection ("DEP"), to whom this authority was delegated by the federal Environmental Protection Agency ("EPA"). Prior to that time, however, such permits were issued by the EPA, which was required to obtain commentary on any proposed permit in New Jersey from the DEP, in the form of a certification
30 of the permit. See attached affidavit of Edward Post.

Kuehne Chemical Company ("KCC") applied to EPA in 1974 for a NPDES permit for a facility it was then operating at the foot of Woods Avenue in Linden, New Jersey, on property it leased from Linden Chlorine Products ("LCP"), which maintained manufacturing
40 facilities at the same location. Using chemicals purchased from LCP, KCC manufactured sodium hypochlorite, or chlorine bleach. Kuehne discharged a liquid effluent, which it claimed to be simply noncontact cooling water, by passing it into a shallow manhole or

catch basin through plastic pipes and a cooling water stream routed over a concrete pad and from the manhole into a concrete pipe to allow final discharge into a flume which led out into a tributary of the Arthur Kill. LCP also discharged effluent into the flume, at a point downstream from that point where KCC's discharge entered the flume. See attached affidavits of Charles Maack and Charles Johnson.

10 On its NPDES permit application, attached hereto as Exhibit A, KCC applied for one separate discharge point, solely for cooling water. KCC specifically indicated that its discharge would not contain chlorine residual. Finally, KCC did not describe the location of its proposed discharge point, except to state that the receiving water for its discharge would be the Arthur Kill. KCC
20 filed a form denominated as the "Short Form C" as its NPDES application, and did not attach any maps or schematic or specify a latitude and longitude to identify its discharge point.

EPA drafted a permit for KCC's discharge and sent copies of it and a Statement of Basis to both KCC and the DEP for comment. See Exhibits B and C, attached hereto. A Statement of Basis such
30 as this is intended to briefly set out an explanation for the permit's terms and conditions. Although neither the Statement of Basis nor the draft permit indicated the location of KCC's discharge point with more specificity than the application had, the Statement of Basis makes it clear that EPA anticipated that the KCC
40 discharge would consist of both the noncontact cooling water and storm runoff. KCC made no objection to either the draft permit or the Statement of Basis. DEP, however, in rendering a certification of the permit, which certification was its sole participation in

the permitting process, (see Exhibit D) asked that EPA include the following monitoring requirements and discharge level for a possible chlorine residual in KCC's effluent, in recognition of the nature of KCC's manufacturing process and potential by-products therefrom:

Under authority granted to the Department by N.J.S.A. 58:10A-1 et seq., outfall 001 shall be limited and monitored as follows:

A. Chlorine Residual (Total)

1. Discharge Limitation: .002 mg/l on a 30 day average.
2. Monitoring Requirements: A grab sample done quarterly.

Monitoring program for Chlorine Residual (Total) to terminate after one year if undetected.

EPA incorporated this requirement into KCC's final permit. See Exhibit E, at page 17 thereof. During this permitting process neither DEP nor EPA sent any personnel to the KCC site in connection with this permit. See attached affidavit of Charles Maack.

In accordance with the final permit, KCC performed one quarter of a year of self monitoring, from August 31, 1980 to December 1, 1980. See Discharge Monitoring Report, Exhibit F. Although this indicated that KCC's effluent was in compliance with permit limitations as to the majority of the parameters set forth in the NPDES permit, KCC's sampled effluent showed more than three thousand times the permit limitations for chlorine residual.*

* The permit limitations for chlorine residual was set out in the permit as .002 mg/l, and the actual level reported by KCC was 6.5 mg/l, 3250 times the permitted amount.

At approximately the time KCC's discharge monitoring report was filed revealing extremely high chlorine levels, DEP was informed by LCP personnel that they believed KCC was discharging chlorine along with its permitted noncontact cooling water and surface runoff. Responding to this report, DEP, which, although not the permit's author, had the authority to enforce it, sent an inspector to the KCC site on January 8, 1981. This inspector took samples from three locations: at the point DEP deemed to be the discharge location, i.e., the point of entry of the concrete pipe into the flume, and also both up the flume and down the flume from the discharge point.* See Exhibit G, attached hereto.

On January 15 and 16, 1981, and again on January 25 and 26, 1981 independent experts originally hired by LCP supervised the taking of samples at three locations: 1) the pipe leading into flume at the point of its discharge into the flume, 2) as well as from effluent which was seeping through the flume wall adjacent to the discharge point and 3) at a point approximately 100 feet downstream from the discharge point. These samples confirmed the high levels of chlorine residual reported earlier by KCC, and showed high pH and caustic levels.

* At the time of sampling on January 8, 1981, DEP suspected that KCC was discharging not only via the discharge pipe in question, but also through a hidden pipe. The sampling locations were partially planned with this in mind.

ARGUMENT

THE MOTION FOR PARTIAL SUMMARY JUDGMENT MUST
BE DENIED SINCE SUBSTANTIAL ISSUES OF CON-
TESTED FACTS REMAIN.

On a motion for summary judgment, the movant must "ex-
clude any reasonable doubt as to the existence of any genuine issue
of material fact." Judson v. Peoples Bank & Trust Co. of Westfield,
17 N.J. 67, 74 (1954). Moreover, in reviewing the submissions of
the parties, the OAL is to draw all inferences against the movant
and in favor of the party opposing the motion. Ibid.

In the instant case, as has been amply demonstrated by
the Statement of Facts, supra, almost all of the facts set forth by
KCC in support of its motion are in serious contest. Thus it is
not appropriate to grant a motion for partial summary judgment,
since live testimony will be required. Further, due to the fact
that at least one of DEP's witnesses is out of the state, it is
requested that the OAL not bifurcate the taking of testimony in any
way, so that DEP will not be required to twice arrange the attend-
ance of its out of state witnesses.

In support of its assertions that the Court should grant
partial summary judgment and should fix the location of the dis-
charge point as being at the point where two small plastic pipes
from KCC's Linden plant flowed into a larger plastic pipe, KCC
alleges that DEP itself sent out two employees to sample KCC's
discharge prior to the issuance of a NPDES permit. KCC alleges
that these two DEP employees sampled at the point KCC claims to be
the discharge point, thereby leading KCC to believe that was the
appropriate discharge location, and to take its own samples at that
location. KCC alleges that DEP never considered the KCC discharge

point to be other than the point at which the three plastic pipes met, and also that DEP never objected to KCC's treatment of that point as the discharge point. KCC concludes that DEP should now be estopped from claiming a different discharge point, since it both actively led KCC to believe and allowed KCC to continue to believe that the junction of the three plastic pipes was the discharge point for KCC.

10 Additionally, KCC alleges that the location at which the concrete pipe led into the flume could not be the discharge point because stormwater and other infiltrations could not be controlled by KCC beyond the point at which the three plastic pipes met.

20 The attached affidavits and exhibits from DEP put KCC's version of the facts into serious question, and make it clear that the motion for summary judgment cannot be granted, since substantial issues of contested fact remain. First, DEP observed that KCC's discharge flowed into the manhole and out to the flume through at least two routes, making it impossible to have a single discharge point located above the manhole, and as noted, KCC had applied for and received a permit for only one discharge point. 30 Second, DEP never sent anyone to the KCC site during the permitting process, thus no DEP employee could have sampled at the spot KCC claims as its discharge point, which sampling might have led KCC to believe that was the correct discharge point. Third, KCC did not inform DEP, either on its Discharge Monitoring Report or on its 40 initial permit application that it considered its discharge point to be at a point in its discharge stream above where its discharge pipe empties into the flume leading to a tributary of the Arthur Kill. DEP had no way of knowing whether or not KCC took samples

for its Discharge Monitoring Report at the pipe's entry into the flume or further up, at some place along its length. Indeed, KCC's samples, allegedly taken at a point at which KCC could still prevent any outside infiltrations from runoff or other claimed sources, only confirm the sample results of January 15, 16, 25 and 26, 1981, making KCC's claim that the sample levels shown on those dates in excess of those allowed by its permit were due to non-KCC infiltrations even less plausible. Moreover, assuming arguendo that KCC did sample at some location other than the discharge point into the flume for its Discharge Monitoring Reports, its sample results would tend to confirm that mid pipe infiltrations would not be sufficient reason to identify the discharge point as the junction of the three plastic pipes.

Further, as set forth in the attached affidavit of Charles Maack, the discharge point for LCP Chemicals was down the flume from KCC's discharge point. This fact makes it reasonable for DEP to continue to consider KCC completely responsible for the effluent from the pipe leading from its plant into the flume. Finally, the Statement of Basis for the permit clearly indicated that surface water runoff was an anticipated part of the discharge, which makes it quite reasonable that DEP should have considered the permitted discharge point to be the end of KCC's discharge point, where it flowed into the flume.

As indicated by Charles Maack and Charles Johnson in their affidavits, DEP always considered the entry point of the discharge pipe into the flume to be KCC's discharge point. DEP submits that this reasonable interpretation of rules and regulations enforced by it should be entitled to deference by the OAL, in

light of all the foregoing facts. See, e.g. In re Application of Saddle River, 71 N.J. 14, 24 (1976); Honachefsky v. N.J. Civil Service Comm'n, 174 N.J. Super. 539, 543 (App. Div. 1980); In re Appeal of Lembo, 151 N.J. Super. 242, 249 (App. Div. 1977).

As the discussion above makes clear, substantial issues of contested fact remain as to the discharge point for KCC which make it impossible for the Court to establish the point as a matter of fact or law on a motion for partial summary judgment.

CONCLUSION

For all the foregoing reasons, the motion of KCC for partial summary judgment and to have the court establish its discharge point must be denied.

Respectfully submitted,

IRWIN I. KIMMELMAN
Attorney General of New Jersey
Attorney for New Jersey Department
of Environmental Protection

By: Priscilla E. Hayes
Priscilla E. Hayes
Deputy Attorney General

Dated: August 21, 1985

(Rec'd. ok for 2/10/92)

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
APPLICATION FOR PERMIT TO DISCHARGE - SHORT FORM C

To be filed only by persons engaged in manufacturing and mining

FOR
AGENCY
USE

APPLICATION NUMBER							
N	J	0	0	2	7	7	0
DATE RECEIVED							
7	4	0	9	2	1		
YEAR		MO.		DAY			

Do not attempt to complete this form before reading accompanying instructions

Please print or type

1. Name, address, location, and telephone number of facility producing discharge

A. Name Kuehne Chemical Company Inc.

B. Mailing address

1. Street address P.O. Box 534 - Ft. of Wood Ave. South, Linden, N.J.

2. City Linden

3. State New Jersey

4. County Union

5. ZIP 07036

C. Location:

1. Street Ft. of Wood Ave. South,

2. City Linden

3. County Union

4. State New Jersey

D. Telephone No. 201 862-1212

Area
Code

2. SIC 2812
(Leave blank)

3. Number of employees 40

If all your waste is discharged into a publicly owned waste treatment facility and to the best of your knowledge you are not required to obtain a discharge permit, proceed to item 4. Otherwise proceed directly to item 5.

4. If you meet the condition stated above, check here ☐ and supply the information asked for below. After completing these items, please complete the date, title, and signature blocks below and return this form to the proper reviewing office without completing the remainder of the form.

A. Name of organization responsible for receiving waste _____

B. Facility receiving waste:

1. Name NA

2. Street address _____

3. City _____

4. County _____

5. State _____

6. ZIP _____

5. ☒ Principal product, ☐ raw material (Check one) Sodium Hypochlorite

6. Principal process Absorption of Chlorine Gas into Sodium Hydroxide Solution

7. Maximum amount of principal product produced XXXXXXXXXXXXXXXXXXXX (Check one)

Basis	Amount							
	1-99 (1)	100-199 (2)	200-499 (3)	500-999 (4)	1000-4999 (5)	5000-9999 (6)	10,000-49,999 (7)	50,000 or more (8)
A. Day							<input checked="" type="checkbox"/>	
B. Month								
C. Year								

PERMITS ADMIN. BRANCH
REGION II
SEP 27 11 38 AM '74
ENVIRONMENTAL PROTECTION
AGENCY
NEW YORK, N.Y. 10007

#7370

8. Maximum amount of principal product produced or raw material consumed, report in item 7. above, is measured in (check one):

A. ☐ pounds B. ☐ tons C. ☐ barrels D. ☐ bushels E. ☐ square feet
F. ☒ gallons G. ☐ pieces or units H. ☐ other, specify _____

NJ0027707
927-74

9. (a) Check here if discharge occurs all year ☒, or

(b) Check the month(s) discharge occurs:

1. ☐ January 2. ☐ February 3. ☐ March 4. ☐ April 5. ☐ May 6. ☐ June
7. ☐ July 8. ☐ August 9. ☐ September 10. ☐ October 11. ☐ November 12. ☐ December

(c) Check how many days per week: 1. ☐ 1 2. ☐ 2-3 3. ☐ 4-5 4. ☒ 6-7

10. Types of waste water discharged to surface waters only (check as applicable)

Discharge per operating day	Flow, operating gallons per day					Volume treated before discharging (percent)				
	0.1-999	1000-4999	5000-9999	10,000-49,999	50,000- or more	None	0.1-29.9	30-64.9	65-94.9	95-100
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
A. Sanitary, daily average	NA									
B. Cooling water, etc. daily average	<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>				
C. Process water, daily average	NA									
D. Maximum per operating day for total discharge (all types)	<input checked="" type="checkbox"/>									

NA

11. If any of the three types of waste identified in item 9, either treated or untreated, are discharged to places other than surface waters, check below as applicable.

Waste water is discharged to:	Average flow, gallons per operating day				
	0.1-999 (1)	1000-4999 (2)	5000-9999 (3)	10,000-49,995 (4)	50,000 or more (5)
A. Municipal sewer system					
B. Underground well					
C. Septic tank					
D. Evaporation lagoon or pond					
E. Other, specify					

12. Number of separate discharge points: A. ☒ 1 B. ☐ 2-3 C. ☐ 4-5 D. ☐ 6 or more

13. Name of receiving water or waters Arthur Kill

14. Does your discharge contain or is it possible for your discharge to contain one or more of the following substances added as a result of your operations, activities, or processes: ammonia, cyanide, aluminum, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, zinc, phenols, oil and grease, and chlorine (residual). A. ☐ yes B. ☒ no

I certify that I am familiar with the information contained in the application and that to the best of my knowledge and belief such information is true, complete, and accurate.

Peter R. Kuehne

Printed Name of Person Signing

9/26/74

Date Application Signed

President

Title

Signature of Applicant

18 U.S.C. Section 1001 provides that:

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations; or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II
26 Federal Plaza
New York, New York 10007

STATEMENT OF BASIS
DRAFT NPDES PERMIT TO
DISCHARGE INTO THE WATERS OF
THE UNITED STATES

NPDES Application No. NJ 0027707

Name and Address of Applicant Kuehne Chemical Company, Inc.
P.O. Box 634, Foot of Wood Avenue South
Linden, New Jersey 07036

Name and Address of Facility Kuehne Chemical Company, Inc.
where Discharge Occurs Foot of Wood Avenue South
Linden, New Jersey 07036

Receiving Water: Arthur Kill

DESCRIPTION OF LIMITATIONS AND CONDITIONS

Limitations and conditions are based upon regional guidance for cooling and stormwater dischargers consistent with 402 Determination. The regional guidance is based on the Chief of the Toxic and Inorganic Waste Section's memo dated December 8, 1978, and the organic limits in the permit can be achieved by proper housekeeping methods. If the non-contact cooling water and storm runoff is not contaminated by process waste or oil, the permittee will be in compliance with the organic parameters. In addition, if the permittee uses heavy metal corrosion inhibitors, the metal limits may be achieved by chemical precipitation.

NPDES PERMIT NO. NJ 0027707

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

By authority of Charles Warren, Regional Administrator, Region II,
U. S. Environmental Protection Agency ("EPA"), and in compliance with
the provisions of the Clean Water Act, as amended, 33 U.S.C. §1251
et seq. (the "Act"),

Kuehne Chemical Company, Inc.

hereinafter referred to as "the Permittee" is authorized to discharge
from a facility located at

Foot of Wood Avenue South
Union County, Linden, New Jersey 07036

to receiving waters named

Arthur Kill

in accordance with effluent limitations, monitoring requirements and
other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on EDP.

This permit and the authorization to discharge shall expire at
midnight, 5 years from EDP.

Signed this day of

JULIO MORALES-SANCHEZ
DIRECTOR
ENFORCEMENT DIVISION

EXHIBIT "C"

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning EDP and lasting through EDP + 5 years the permittee is authorized to discharge from outfall(s) serial number(s) 001.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations				Monitoring Requirements	
	Gross	other units(specified)			Measurement Frequency	Sample Type
	kgs/day(lbs/day)	Avg.Monthly	Max.Daily	Avg.Monthly		
Flow-m ³ /Day (MGD)	N/A	N/A	N/A	N/A	Quarterly	Grab
Chemical Oxygen Demand*	N/A	N/A	N/A	50 mg/l	Quarterly	Grab
Petroleum Hydrocarbons	N/A	N/A	N/A	10 mg/l	Twice Yearly	Grab
Total Suspended Solids**	N/A	N/A	N/A	N/A	Quarterly	Grab
Temperature °C (°F)	N/A	N/A	N/A	30 (86)	Quarterly	Grab
Chromium ***	N/A	N/A	N/A	.5 mg/l	Quarterly	Grab
Zinc ***	N/A	N/A	N/A	1.0 mg/l	Quarterly	Grab
Copper***	N/A	N/A	N/A	1.0 mg/l	Quarterly	Grab

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored quarterly. The sample type for this parameter shall be grab.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the outfall(s) of discharge serial number(s) 001.

*Upon written request from the permittee this limit may be changed to 20 mg/l of Total Organic Carbon.

**Additional limitations may be imposed after receipt of monitoring data.

***Monitoring for this parameter is not required unless a corrosion inhibitor containing this metal is used for water treatment purposes.

B. MONITORING AND REPORTING REQUIREMENTS

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume of effluent flow and the quantity of pollutants discharged.

2. Reporting

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on . Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and the State at the following addresses:

Regional Administrator
Region II
U. S. Environmental Protection Agency
26 Federal Plaza
New York, New York 10007
ATTN: Permits Administration Branch

Assistant Director for Operations
and Enforcement
Division of Water Resources
New Jersey Department of Environmental Protection
P. O. Box CN-029
Trenton, New Jersey 08625

3. Definitions

- a. The "average monthly discharge" means the summation of all the sampled and/or measured daily discharges by mass, or in other units as specified herein, divided by the number of days during the calendar month when the measurements or samples were made.
- b. The "maximum daily discharge" means the total discharge by mass, or in other appropriate units as specified herein, of a pollutant discharged during any calendar day.
- c. "Daily" means each operating day.
- d. "Weekly" means every seventh day (the same day each week) and a normal operating day.

- e. "Monthly" means one day each month (the same day each month) and a normal operating day (e.g., the 2nd Tuesday of each month).
- f. "Net" means the amount of a pollutant contained in the discharge measured in appropriate units as specified herein, less the amount of a pollutant contained in the surface water body intake source, measured in the same units, over the same period of time.
 - 1. The intake water source must be drawn from the same body of water into which the discharge is made.
 - 2. In cases where the surface water body intake source is pretreated for the removal of pollutants, the intake level of a pollutant to be used in calculating the net, is that level contained after the pretreatment steps.
- g. "Composite" means a combination of individual (or continuously taken) samples obtained at regular intervals over the entire discharge day. The volume of each sample shall be proportional to the discharge flow rate. For a continuous discharge, a minimum of 24 individual grab samples (at hourly intervals) shall be collected and combined to constitute a 24-hour composite sample. For intermittent discharges of 4 - 8 hours duration, grab samples shall be taken at a minimum of 30 minute intervals. For intermittent discharges of less than 4 hours duration grab samples shall be taken at a minimum of 15 minute intervals.
- h. "Gross" means the weight or the concentration contained in the discharge. (Unless a limitation is specified as a net limitation, the limitation contained in this permit is a gross limitation.)
- i. "Grab" means an individual sample collected in less than 15 minutes.
- j. "Bypass" means the intentional diversion of wastes from any portion of a treatment facility.

PART I

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- k. "Severe property damage" means the substantial physical damage to the treatment facilities which would cause them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- l. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- m. "State" means the State water pollution control agency.
- n. "EDP" means effective date of this permit.

4. Test Procedures

Test procedures identified in 40 CFR 136 and promulgated pursuant to Section 304(h) of the Act shall be utilized for the analyses of pollutants, unless a different test procedure is specified in this permit.

5. Quality Assurance Practices

The permittee is required to show the validity of all data by requiring its laboratory to adhere to the following minimum quality assurance practices:

- a. Duplicate⁽¹⁾ and spiked⁽²⁾ samples must be run for each constituent analyzed for permit compliance on 5% of the samples, or at least on one sample per month, whichever is greater. If the analysis frequency is less than one sample per month, duplicate and spiked samples must be run for each analysis.

-
- 1) Duplicate samples are not required for the following parameters: Color, Temperature, Turbidity.
 - 2) Spiked samples are not required for the following parameters listed in Table 1 of 40 CFR 136: Acidity, Alkalinity, Bacteriological, Benzidine, Chlorine, Color, Dissolved Oxygen, Hardness, pH, Oil & Grease, Radiological, Residues, Temperature, Turbidity. Procedures for spiking samples and spiked sample requirements for parameters not listed on the above referenced table are available through the Regional Quality Assurance Coordinator.

- b. For spiked samples, a known amount of each constituent is to be added to the discharge sample. The amount of constituent added should be approximately the same amount present in the unspiked sample, or must be approximately that stated as maximum or average in the discharge permit.
- c. The data obtained in a. shall be summarized in an annual report submitted at the end of the fourth quarter of reporting in terms of precision, percent recovery, and the number of duplicate and spiked samples run.
- d. Precision for each parameter shall be calculated by the formula, standard deviation $s = (\sum d^2/2k)^{1/2}$, where d is the difference between duplicate results, and k is the number of duplicate pairs used in the calculation.
- e. Percent recovery for each parameter shall be calculated by the formula $R = 100(F-I)/A$, where F is the analytical result of the spiked sample, I is the result before spiking of the sample, and A is the amount of constituent added to the sample.
- f. The percent recovery, R , for each parameter in e. above shall be summarized yearly in terms of mean percent recovery and standard deviation from the mean. The formula, $s = (\sum (x-\bar{x})^2/(n-1))^{1/2}$, where s is the standard deviation around the mean \bar{x} , x is an individual recovery value, and n is the number of data points, shall be applied.
- g. The permittee or his contract laboratory is required to annually analyze an external quality control reference sample for each pollutant. These are available through the Regional Quality Assurance Coordinator, Region II, U. S. Environmental Protection Agency, Edison Environmental Laboratory, Edison, New Jersey 08817.
- h. The permittee and/or his contract laboratory is required to maintain records of the specific analytical methods used, including options employed, if any, within a particular method, and of reagent standardization and equipment calibration operations.
- i. If a contract laboratory is utilized, the permittee shall report the name and address of the laboratory and the parameters analyzed together with the monitoring data required in Part I.B.2. In addition, the permittee shall notify the Regional Administrator in writing within 30 days of any change in the contract laboratory being utilized.

6. Recording of Monitoring Results

For each measurement of sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The date, exact place and time of sampling or measurements;
- b. The person(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The person(s) who performed the analyses;
- e. The analytical techniques or methods used;
- f. The quality assurance information as stated in 5. above; and
- g. The result of all such analyses.

7. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form (EPA No. 3320-1). Such increased frequency shall also be indicated.

Other monitoring data not specifically required by this permit (such as internal process or internal waste stream data) or data collected by third parties need not be submitted unless it indicates a violation, but it shall be identified and referenced as a supplement to the Discharge Monitoring Report.

8. Records Retention

All records and information resulting from the monitoring activities required by this permit (including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records) shall be retained by the permittee for a minimum of three (3) years. The three-year period shall be extended (a) as requested by the Regional Administrator or by the State Director, or (b) automatically during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or regarding EPA-promulgated effluent guidelines applicable to the permittee.

A. MANAGEMENT REQUIREMENTS

1. Signatories of reports

All reports or requests for information required by the permit issuing authority pursuant to the terms of this permit, including discharge monitoring reports and reports of noncompliance, shall be signed as follows:

- a. For a corporation, by a principal executive officer of at least the level of vice president;
- b. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or
- c. For a municipality, State, Federal, or other public facility, by either a principal executive officer or ranking elected official; or
- d. By a duly authorized representative of a, b, or c above, if:
 1. The representative so authorized is responsible for the overall operation of the facility from which the discharge originates, e.g., a plant manager, superintendent or person of equivalent responsibility;
 2. The authorization is made in writing by the person designated under paragraph a, b, or c above; and
 3. The written authorization is submitted to the Regional Administrator, U.S. EPA, Region II, 26 Federal Plaza, New York, New York 10007, ATTN: Permits Administration Branch, and to the State Director.
- e. Any changes in the written authorization submitted to the permitting authority under subparagraph d. shall be reported to the U.S. EPA by submitting a copy of a new written authorization which meets the requirements of subparagraph d.
- f. Any person signing any document under paragraph a, b, c or d shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

2. Change in Discharge

- a. All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit.
- b. If the permittee knows or has reason to believe that any activity has occurred or will occur which would constitute cause for modification or revocation and reissuance of the permit under 40 CFR §122.31 (44 Federal Register 32912, June 7, 1979), the permittee shall report such information to the Regional Administrator and the Director of the State water pollution control agency. Material and substantial alterations or additions to the permittee's operation (e.g., production changes, relocation or combination of discharge points, changes in the nature or mix of products produced) are a cause for modification or revocation and reissuance provided the reconstruction activities are not so great as to require new source permit issuance procedures to apply.
- c. Submission of information under subparagraph b., including, if appropriate, a new permit application, does not relieve the permittee from the duty to comply with this permit until it is modified or reissued.

3. Noncompliance Notification

- a. If, for any reason, the permittee does not comply with or will be unable to comply with any maximum daily or average weekly discharge limitations or standards specified in this permit, the permittee shall provide the Regional Administrator and the State with the following information:
 1. A description of the discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and
 3. Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

- b. The noncompliance information required by subparagraph a. shall be provided within 24 hours from the time the permittee becomes aware of the circumstances and, if that information was provided orally, shall be followed by a written submission within 5 days of the time the permittee becomes aware of the circumstances in the case of any discharge subject to any applicable toxic pollutant effluent standard under §307(a) of the Act (see 40 CFR 401.15) or in the case of other discharges which could constitute a threat to human health, welfare, or the environment, including discharges containing pollutants promulgated under §311 of the Act (see 40 CFR 116) or discharges which could cause a threat to public drinking water supplies.
- c. The noncompliance information required by subparagraph a. shall be provided in writing and accompany the discharge monitoring report(s) (see Part I, B.2.) covering the period of noncompliance unless subparagraph b. is applicable.

4. Facilities Operation

The permittee shall at all times maintain in good working order and operate as efficiently as possible all facilities and systems (and related appurtenances) for collection and treatment which are installed or used by the permittee for water pollution control and abatement to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes but is not limited to effective performance based on designed facility removals, adequate funding, effective management, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures.

5. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to waters of the United States resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

6. Bypassing

- a. Bypassing is prohibited unless (1) bypass is unavoidable to prevent loss of life, personal injury, or severe property damage; (2) there are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment down-time; (3) the notification requirements of subparagraph b. are followed; and (4) conditions determined to be necessary by the Regional Administrator to minimize adverse effects are complied with.
- b. Subject to c. below, the permittee shall submit notice of an unanticipated bypass to the Regional Administrator and State within 24 hours of becoming aware of the bypass (if this information is provided orally, a written submission must be provided within five days). Where the permittee knows or should have known in advance of the need for a bypass, this prior notification shall be submitted for approval to the Regional Administrator, if possible, at least 10 days before the date of the bypass.
- c. Where essential maintenance necessary to ensure efficient operation of treatment systems requires bypassing portion(s) of a system and such a bypass will not cause effluent limitations or standards contained in this permit to be exceeded, notification to the Regional Administrator and State is not required.

7. Upsets

An upset shall constitute an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations provided the permittee demonstrates through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a. An upset occurred and the permittee can identify the specific causes(s) of the upset;

- b. The permitted facility was at the time being operated in a prudent manner and in compliance with proper operation and maintenance procedures;
- c. The permittee submitted information described in Part II, A.3.a. to the Regional Administrator and State within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within 5 days); and
- d. The permittee complied with any remedial measures required under Part II, A.5.

8. Removed Substances

Solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters and/or the treatment of intake waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. The following data shall be reported together with the monitoring data required in Part I, B.2.: (a) The sources of the materials to be disposed of; (b) The approximate volumes and weights; (c) the method by which they were removed and transported; (d) their final disposal locations.

9. Reduction, Loss or Failure of the Treatment Facility

In order to maintain compliance with the effluent limitations and conditions of this permit, the permittee shall halt, reduce or otherwise control production and all discharges upon the reduction, loss or failure of the wastewater treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies to the situation where, among other things, the primary source of power of the treatment is reduced, lost or fails.

B. RESPONSIBILITIES**1. Right of Entry**

The permittee shall allow the head of the State water pollution control agency, the Regional Administrator, and/or their authorized representatives, upon the presentation of credentials and such other documents as may be required by law:

- a. To enter upon the permittee's premises where a point source is located or in which any records are required to be kept under the terms and conditions of this permit;
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit;
- c. At reasonable times to inspect any monitoring equipment or monitoring method required in this permit;
- d. At reasonable times to inspect any collection, treatment, pollution management, or discharge facilities required under this permit; and
- e. At reasonable times to sample any discharge of pollutants.

2. Transferability of Permit

A permit shall be transferred to another person by a permittee if:

- a. The permittee notified the Regional Administrator and State Director of the proposed transfer;
- b. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittee (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) is submitted to the Regional Administrator and State Director; and

- c. The Regional Administrator within 30 days does not notify the current permittee and the new permittee of his or her intent to modify, revoke and reissue, or terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit.

3. Availability of Reports

Except for data determined to be confidential under Section 308 of the Act and regulations promulgated at 40 CFR 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the Act; effluent data shall not be considered confidential. Knowingly making any false statement, representation or certification on a report required by this permit, including but not limited to any discharge monitoring report, notice of compliance report, or any record or other document required to be maintained by the permittee under this permit, may result, upon conviction, in imprisonment or the imposition of criminal penalties as provided for in Section 309 of the Act.

4. Permit Modification

After notice and opportunity for a hearing as required by 40 CFR Part 124, this permit may be modified in whole or in part, revoked and reissued, or terminated during its term for cause as specified in 40 CFR 122.31 (44 Federal Register 32912, June 7, 1979). Among the causes specified in that regulation are:

- a. Violation of any term or condition of this permit;
- b. Failure of the permittee to disclose fully all relevant facts or misrepresentation of any relevant facts by the permittee in the application or during the permit issuance process;
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of any authorized discharge; and
- d. Information indicating that the permitted discharge poses a threat to human health or welfare.

5. Toxic Pollutants

Notwithstanding Part II, B.4. above, this permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b)(2)(C), and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

- a. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
- b. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

6. Civil and Criminal Liability

Except as provided in permit conditions on "Bypassing" (Part II, A.6.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability

The imposition of responsibilities upon, or the institution of any legal action against the permittee under Section 311 of the Act shall be in conformance with regulations promulgated pursuant to Section 311 of the Act governing the applicability of Section 311 to discharges from facilities with NPDES permits.

8. State Laws.

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act. The issuance of this permit does not preempt any duty to obtain State or local assent required by law for the discharge.

9. Property Rights

The issuance of this permit does not convey any property rights of any sort in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

10. Severability

The provisions of this permit are severable, any if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

A. EFFECTIVENESS OF PERMIT

1. This permit shall become effective in its entirety on the date indicated on the first page of this permit unless a request for an evidentiary hearing or a panel hearing is granted pursuant to the provisions of 40 CFR Part 124, Subpart H or I, 44 Federal Register 111, pp. 32938-32947 (June 7, 1979).
2. This permit and the authorization to discharge shall terminate on the expiration date indicated on the first page. In order to receive authorization to discharge beyond the date of expiration, the permittee shall submit such information, forms and fees as are required by the agency responsible for the issuance of NPDES permits no later than 180 days prior to the expiration date.



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATER RESOURCES

P. O. BOX CN-029

TRENTON, NEW JERSEY 08625

MAY 22 1980

Mr. Herbert Barrack, Director
Planning and Management Division
U.S. Environmental Protection Agency
Region II
26 Federal Plaza
New York, New York 10007

ATTENTION: Dr. Richard A. Baker, Chief
Permits Administration Branch

Kuehne Chemical Company Incorporated
P.O. Box 534 - Ft. of Wood Avenue South
Linden, New Jersey 07036

RE: Kuehne Chemical Company Inc.,
Linden, NJ 0027707

PERMITS ADMIN. DIV.
MAY 30 3 13 PM '80
ENVIRONMENTAL PROTECTION
AGENCY
NEW YORK, N.Y. 10007

Gentlemen:

This letter serves to inform you that the State of New Jersey, Department of Environmental Protection, hereinafter NJDEP, intends to certify, pursuant to Section 401 of the Federal Clean Water Act of 1977, hereinafter the Act, the discharge(s) of Kuehne Chemical Company Inc., Linden, Union County, New Jersey which is the subject of Federal application No. NJ 0027707. Certification for this application was requested by EPA, Region II in a letter dated March 17, 1980. A copy of a preliminary draft permit was also provided with the certification request.

The above process is intended to satisfy the requirements of Section 401 of the Act regarding public notice for certification.

This letter is also intended to serve as certification according to the provisions of Section 401 of the Act with respect to Sections 301, 302, 303, 306, and 307. It is understood that the draft permit sent to this Department includes the appropriate requirements of Sections 301, 302, 303, 306, and 307 unless specific limitations are provided below.

This certification shall become a final certification of the NPDES permit at the expiration of the public comment period, unless NJDEP has just cause to modify the certification.

This 401 certification is issued with the intent of assuring compliance with New Jersey's water quality standards and other appropriate requirements of State law, as provided by Section 401 (d) of the Act, and herein requires the following effluent limitations, other limitations, and conditions:

I. Under authority granted to the Department by N.J.S.A., 58:10A-1 et seq., outfall 001 shall be limited and monitored as follows:

A. Chlorine Residual (Total)*

1. Discharge Limitation: .002 mg/l on a 30 day average.
2. Monitoring Requirements: A grab sample done quarterly.

*Monitoring program for Chlorine Residual (Total) to terminate after one year if undetected.

II. The permittee shall discharge so as not to violate the Surface Water Quality Standards for the Arthur Kill, classified as TW-3 waters, set forth in N.J.A.C. 7:9-4 et seq.

III. The permittee shall discharge so as not to violate the Interstate Sanitation Commission (I.S.C.) Water Quality Regulations promulgated pursuant to the authority conferred upon the I.S.C. by Tri-State Compact (N.J.S.A. 32:18-1 et seq.).

The I.S.C. Water Quality Regulations include, but are not limited to, the following provisions:

A. Total Suspended Solids content shall not exceed:

1. 30 mg/l on a 30 consecutive day average.
2. 45 mg/l on a 7 consecutive day average.
3. 50 mg/l on a 6 consecutive hour average.

IV. The draft permit forwarded to this Department on March 17, 1980, with the provisions in this certification to be included in the final permit, is not in conflict with the applicable approved portions of the Northeast Water Quality Management Plan, developed in accordance with Section 208 of the Act. The NPDES permit will be reviewed at such time as the Northeast Water Quality Management Plan, or applicable portion(s) thereof, are revised and the appropriate modifications to the permit be made at that time.

V. The permittee shall comply with the Facilities Plan developed for the Linden-Roselle S.A. in accordance with Section 201 of the Act.

VI. The permittee shall comply with the Sludge Quality Assurance Regulations (N.J.A.C. 7:14-4.1 et seq).

Pursuant to the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq., Kuehne Chemical Company Inc. is entitled to a hearing before the New Jersey Department of Environmental Protection on all material issues of fact in dispute relating to this certification. If Kuehne Chemical Company Inc. intends to raise objections to this certification, a request for a hearing must be postmarked within twenty (20) days of receipt of this letter and should be sent to:

Paul C. Kurisko, P.E., Chief
Bureau of Industrial Waste Management
Water Quality Management Element
Division of Water Resources
P.O. Box CN-029
Trenton, New Jersey 08625

An additional copy of the request for a hearing should be sent to:

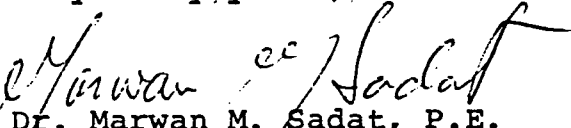
Permits Administration Branch
EPA, Region II
26 Federal Plaza
New Jersey, New York 10007

Requests for an administrative hearing shall contain the following information:

- (1) State the name and address of the person making such request.
- (2) Identify the interest of the requestor which is affected by the State certification of the NPDES permit.
- (3) Identify any person whom the request represents.
- (4) Include an agreement by the requestor to be subject to examination and cross-examination and to make any employee or consultant of such requestor available for examination and cross-examination at the expense of such requestor upon the request of the Presiding Officer, on his own motion, or on the motion of any party.
- (5) State with particularity the reason for the request. The requestor must state in detail the material issues of fact in dispute. Unless there are material issues of fact in dispute a hearing request will not be granted.

- (6) State with particularity the legal issues proposed to be considered at the hearing.
- (7) Include proposed terms and conditions which, in the judgment of the requestor, would be required in the State certification to carry out the intendment of the Federal Act and applicable State and interstate statutes and regulations.

Very truly yours,


Dr. Marwan M. Sadat, P.E.
Assistant Director
Water Quality Management

0003097-99:J

cc: Mayor and Council of Linden
Bruce Pyle, Division of Fish, Game
and Wildlife
Dr. Alan I Mytelka, ISC
Mr. Russell Nerlick, NJDEP
Dr. Shing Fu Hsueh, NJDEP
Mr. William B. Honachefsky, NJDEP
Mr. Pat Harvey, USEPA
Mr. Harvey Lunenfeld, USEPA
Dr. Richard A. Baker, USEPA
Mr. Ralph W. Mortensen, NJDEP

24
NPDES PERMIT NO. NJ 0027707

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

By authority of Charles Warren, Regional Administrator, Region II,
U. S. Environmental Protection Agency ("EPA"), and in compliance with
the provisions of the Clean Water Act, as amended, 33 U.S.C. §1251
et seq. (the "Act"),

Kuehne Chemical Company, Inc.

hereinafter referred to as "the Permittee" is authorized to discharge
from a facility located at

Foot of Wood Avenue South
Union County, Linden, New Jersey 07036

to receiving waters named

Arthur Kill

in accordance with effluent limitations, monitoring requirements and
other conditions set forth in Parts I, II, and III hereof.

This permit shall become effective on August 31, 1980.

This permit and the authorization to discharge shall expire at
midnight, August 31, 1985.

Signed this 14 day of

July 1980

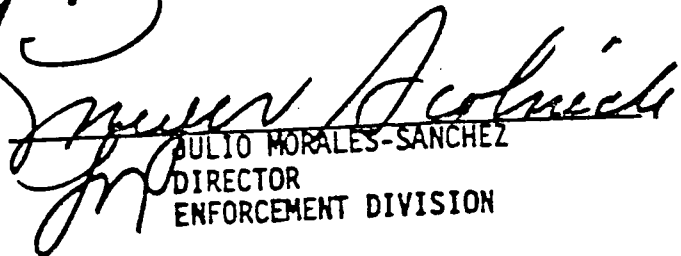

JULIO MORALES-SANCHEZ
DIRECTOR
ENFORCEMENT DIVISION

EXHIBIT "E"

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning August 31, 1980 and lasting through August 31, 1985 the permittee is authorized to discharge from outfall(s) serial number(s) 001.

Such discharges shall be limited and monitored by the permittee as specified below:

Effluent Characteristic	Discharge Limitations				Monitoring Requirements	
	Gross	other units(specified)			Measurement Frequency	Sample Type
	kgs/day(lbs/day)	Avg.Monthly	Max.Daily	Avg.Monthly		
Flow-m ³ /Day (MGD)	N/A					
Chemical Oxygen Demand*	N/A	N/A	N/A	N/A	Quarterly	Grab
Petroleum Hydrocarbons	N/A	N/A	N/A	50 mg/l	Quarterly	Grab
Total Suspended Solids**	N/A	N/A	N/A	10 mg/l	Twice Yearly	Grab
Temperature OC (OF)	N/A	N/A	N/A	N/A	Quarterly	Grab
Chromium ***	N/A	N/A	N/A	30 (86)	Quarterly	Grab
Zinc ***	N/A	N/A	N/A	.5 mg/l	Quarterly	Grab
Copper***	N/A	N/A	N/A	1.0 mg/l	Quarterly	Grab
				1.0 mg/l	Quarterly	Grab

The pH shall not be less than 6.0 standard units nor greater than 9.0 standard units and shall be monitored quarterly. The sample type for this parameter shall be grab.

There shall be no discharge of floating solids or visible foam in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location(s): At the outfall(s) of discharge serial number(s) 001.

- *Upon written request from the permittee this limit may be changed to 20 mg/l of Total Organic Carbon.
- **Additional limitations may be imposed after receipt of monitoring data.
- ***Monitoring for this parameter is not required unless a corrosion inhibitor containing this metal is used for water treatment purposes.

B. MONITORING AND REPORTING REQUIREMENTS

1. Representative Sampling

Samples and measurements taken as required herein shall be representative of the volume of effluent flow and the quantity of pollutants discharged.

2. Reporting

Monitoring results obtained during the previous 12 months shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. The first report is due on September 28, 1981. Duplicate signed copies of these, and all other reports required herein, shall be submitted to the Regional Administrator and the State at the following addresses:

Regional Administrator
Region II
U. S. Environmental Protection Agency
26 Federal Plaza
New York, New York 10007
ATTN: Permits Administration Branch

Assistant Director for Operations
and Enforcement
Division of Water Resources
New Jersey Department of Environmental Protection
P. O. Box CN-029
Trenton, New Jersey 08625

3. Definitions

- a. The "average monthly discharge" means the summation of all the sampled and/or measured daily discharges by mass, or in other units as specified herein, divided by the number of days during the calendar month when the measurements or samples were made.
- b. The "maximum daily discharge" means the total discharge by mass, or in other appropriate units as specified herein, of a pollutant discharged during any calendar day.
- c. "Daily" means each operating day.
- d. "Weekly" means every seventh day (the same day each week) and a normal operating day.

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- e. "Monthly" means one day each month (the same day each month) and a normal operating day (e.g., the 2nd Tuesday of each month).
- f. "Net" means the amount of a pollutant contained in the discharge measured in appropriate units as specified herein, less the amount of a pollutant contained in the surface water body intake source, measured in the same units, over the same period of time.
 - 1. The intake water source must be drawn from the same body of water into which the discharge is made.
 - 2. In cases where the surface water body intake source is pretreated for the removal of pollutants, the intake level of a pollutant to be used in calculating the net, is that level contained after the pretreatment steps.
- g. "Composite" means a combination of individual (or continuously taken) samples obtained at regular intervals over the entire discharge day. The volume of each sample shall be proportional to the discharge flow rate. For a continuous discharge, a minimum of 24 individual grab samples (at hourly intervals) shall be collected and combined to constitute a 24-hour composite sample. For intermittent discharges of 4 - 8 hours duration, grab samples shall be taken at a minimum of 30 minute intervals. For intermittent discharges of less than 4 hours duration grab samples shall be taken at a minimum of 15 minute intervals.
- h. "Gross" means the weight or the concentration contained in the discharge. (Unless a limitation is specified as a net limitation, the limitation contained in this permit is a gross limitation.)
- i. "Grab" means an individual sample collected in less than 15 minutes.
- j. "Bypass" means the intentional diversion of wastes from any portion of a treatment facility.

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- k. "Severe property damage" means the substantial physical damage to the treatment facilities which would cause them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- l. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- m. "State" means the State water pollution control agency.
- n. "EDP" means effective date of this permit.

4. Test Procedures

Test procedures identified in 40 CFR 136 and promulgated pursuant to Section 304(h) of the Act shall be utilized for the analyses of pollutants, unless a different test procedure is specified in this permit.

5. Quality Assurance Practices

The permittee is required to show the validity of all data by requiring its laboratory to adhere to the following minimum quality assurance practices:

- a. Duplicate⁽¹⁾ and spiked⁽²⁾ samples must be run for each constituent analyzed for permit compliance on 5% of the samples, or at least on one sample per month, whichever is greater. If the analysis frequency is less than one sample per month, duplicate and spiked samples must be run for each analysis.

-
- 1) Duplicate samples are not required for the following parameters: Color, Temperature, Turbidity.
 - 2) Spiked samples are not required for the following parameters listed in Table 1 of 40 CFR 136: Acidity, Alkalinity, Bacteriological, Benzidine, Chlorine, Color, Dissolved Oxygen, Hardness, pH, Oil & Grease, Radiological, Residues, Temperature, Turbidity. Procedures for spiking samples and spiked sample requirements for parameters not listed on the above referenced table are available through the Regional Quality Assurance Coordinator.

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- b. For spiked samples, a known amount of each constituent is to be added to the discharge sample. The amount of constituent added should be approximately the same amount present in the unspiked sample, or must be approximately that stated as maximum or average in the discharge permit.
- c. The data obtained in a. shall be summarized in an annual report submitted at the end of the fourth quarter of reporting in terms of precision, percent recovery, and the number of duplicate and spiked samples run.
- d. Precision for each parameter shall be calculated by the formula, standard deviation $s = (\sum d^2/2k)^{1/2}$, where d is the difference between duplicate results, and k is the number of duplicate pairs used in the calculation.
- e. Percent recovery for each parameter shall be calculated by the formula $R = 100(F-I)/A$, where F is the analytical result of the spiked sample, I is the result before spiking of the sample, and A is the amount of constituent added to the sample.
- f. The percent recovery, R , for each parameter in e. above shall be summarized yearly in terms of mean percent recovery and standard deviation from the mean. The formula, $s = (\sum (x-\bar{x})^2/(n-1))^{1/2}$, where s is the standard deviation around the mean \bar{x} , x is an individual recovery value, and n is the number of data points, shall be applied.
- g. The permittee or his contract laboratory is required to annually analyze an external quality control reference sample for each pollutant. These are available through the Regional Quality Assurance Coordinator, Region II, U. S. Environmental Protection Agency, Edison Environmental Laboratory, Edison, New Jersey 08817.
- h. The permittee and/or his contract laboratory is required to maintain records of the specific analytical methods used, including options employed, if any, within a particular method, and of reagent standardization and equipment calibration operations.
- i. If a contract laboratory is utilized, the permittee shall report the name and address of the laboratory and the parameters analyzed together with the monitoring data required in Part I.B.2. In addition, the permittee shall notify the Regional Administrator in writing within 30 days of any change in the contract laboratory being utilized.

6. Recording of Monitoring Results

For each measurement of sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

- a. The date, exact place and time of sampling or measurements;
- b. The person(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The person(s) who performed the analyses;
- e. The analytical techniques or methods used;
- f. The quality assurance information as stated in 5. above; and
- g. The result of all such analyses.

7. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the Discharge Monitoring Report Form (EPA No. 3320-1). Such increased frequency shall also be indicated.

Other monitoring data not specifically required by this permit (such as internal process or internal waste stream data) or data collected by third parties need not be submitted unless it indicates a violation, but it shall be identified and referenced as a supplement to the Discharge Monitoring Report.

8. Records Retention

All records and information resulting from the monitoring activities required by this permit (including all original strip chart recordings for continuous monitoring instrumentation and calibration and maintenance records) shall be retained by the permittee for a minimum of three (3) years. The three-year period shall be extended (a) as requested by the Regional Administrator or by the State Director, or (b) automatically during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or regarding EPA-promulgated effluent guidelines applicable to the permittee.

A. MANAGEMENT REQUIREMENTS

1. Signatories of reports

All reports or requests for information required by the permit issuing authority pursuant to the terms of this permit, including discharge monitoring reports and reports of noncompliance, shall be signed as follows:

- a. For a corporation, by a principal executive officer of at least the level of vice president;
- b. For a partnership of sole proprietorship, by a general partner or the proprietor, respectively; or
- c. For a municipality, State, Federal, or other public facility, by either a principal executive officer or ranking elected official; or
- d. By a duly authorized representative of a, b, or c above, if:
 1. The representative so authorized is responsible for the overall operation of the facility from which the discharge originates, e.g., a plant manager, superintendent or person of equivalent responsibility;
 2. The authorization is made in writing by the person designated under paragraph a, b, or c above; and
 3. The written authorization is submitted to the Regional Administrator, U.S. EPA, Region II, 26 Federal Plaza, New York, New York 10007, ATTN: Permits Administration Branch, and to the State Director.
- e. Any changes in the written authorization submitted to the permitting authority under subparagraph d. shall be reported to the U.S. EPA by submitting a copy of a new written authorization which meets the requirements of subparagraph d.
- f. Any person signing any document under paragraph a, b, c or d shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

PART II

Page 9

Permit No. NJ 0027707

2. Change in Discharge

- a. All discharges authorized herein shall be consistent with the terms and conditions of this permit. The discharge of any pollutant identified in this permit more frequently than or at a level in excess of that authorized shall constitute a violation of the permit.
- b. If the permittee knows or has reason to believe that any activity has occurred or will occur which would constitute cause for modification or revocation and reissuance of the permit under 40 CFR §122.31 (44 Federal Register 32912, June 7, 1979), the permittee shall report such information to the Regional Administrator and the Director of the State water pollution control agency. Material and substantial alterations or additions to the permittee's operation (e.g., production changes, relocation or combination of discharge points, changes in the nature or mix of products produced) are a cause for modification or revocation and reissuance provided the reconstruction activities are not so great as to require new source permit issuance procedures to apply.
- c. Submission of information under subparagraph b., including, if appropriate, a new permit application, does not relieve the permittee from the duty to comply with this permit until it is modified or reissued.

3. Noncompliance Notification

- a. If, for any reason, the permittee does not comply with or will be unable to comply with any maximum daily or average weekly discharge limitations or standards specified in this permit, the permittee shall provide the Regional Administrator and the State with the following information:
 1. A description of the discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times and/or the anticipated time when the discharge will return to compliance; and
 3. Steps being taken to reduce, eliminate, and prevent recurrence of the noncomplying discharge.

- b. The noncompliance information required by subparagraph a. shall be provided within 24 hours from the time the permittee becomes aware of the circumstances and, if that information was provided orally, shall be followed by a written submission within 5 days of the time the permittee becomes aware of the circumstances in the case of any discharge subject to any applicable toxic pollutant effluent standard under §307(a) of the Act (see 40 CFR 401.15) or in the case of other discharges which could constitute a threat to human health, welfare, or the environment, including discharges containing pollutants promulgated under §311 of the Act (see 40 CFR 116) or discharges which could cause a threat to public drinking water supplies.
- c. The noncompliance information required by subparagraph a. shall be provided in writing and accompany the discharge monitoring report(s) (see Part I, B.2.) covering the period of noncompliance unless subparagraph b. is applicable.

4. Facilities Operation

The permittee shall at all times maintain in good working order and operate as efficiently as possible all facilities and systems (and related appurtenances) for collection and treatment which are installed or used by the permittee for water pollution control and abatement to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes but is not limited to effective performance based on designed facility removals, adequate funding, effective management, adequate operator staffing and training, and adequate laboratory and process controls including appropriate quality assurance procedures.

5. Adverse Impact

The permittee shall take all reasonable steps to minimize any adverse impact to waters of the United States resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

6. Bypassing

- a. Bypassing is prohibited unless (1) bypass is unavoidable to prevent loss of life, personal injury, or severe property damage; (2) there are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment down-time; (3) the notification requirements of subparagraph b. are followed; and (4) conditions determined to be necessary by the Regional Administrator to minimize adverse effects are complied with.
- b. Subject to c. below, the permittee shall submit notice of an unanticipated bypass to the Regional Administrator and State within 24 hours of becoming aware of the bypass (if this information is provided orally, a written submission must be provided within five days). Where the permittee knows or should have known in advance of the need for a bypass, this prior notification shall be submitted for approval to the Regional Administrator, if possible, at least 10 days before the date of the bypass.
- c. Where essential maintenance necessary to ensure efficient operation of treatment systems requires bypassing portion(s) of a system and such a bypass will not cause effluent limitations or standards contained in this permit to be exceeded, notification to the Regional Administrator and State is not required.

7. Upsets

An upset shall constitute an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations provided the permittee demonstrates through properly signed, contemporaneous operating logs, or other relevant evidence that:

- a. An upset occurred and the permittee can identify the specific causes(s) of the upset;

- b. The permitted facility was at the time being operated in a prudent manner and in compliance with proper operation and maintenance procedures;
- c. The permittee submitted information described in Part II, A.3.a. to the Regional Administrator and State within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within 5 days); and
- d. The permittee complied with any remedial measures required under Part II, A.5.

8. Removed Substances

Solids, sludges, filter backwash or other pollutants removed in the course of treatment or control of wastewaters and/or the treatment of intake waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters. The following data shall be reported together with the monitoring data required in Part I, B.2.: (a) The sources of the materials to be disposed of; (b) The approximate volumes and weights; (c) the method by which they were removed and transported; (d) their final disposal locations.

9. Reduction, Loss or Failure of the Treatment Facility

In order to maintain compliance with the effluent limitations and conditions of this permit, the permittee shall halt, reduce or otherwise control production and all discharges upon the reduction, loss or failure of the wastewater treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies to the situation where, among other things, the primary source of power of the treatment is reduced, lost or fails.

RESPONSIBILITIES

1. Right of Entry

The permittee shall allow the head of the State water pollution control agency, the Regional Administrator, and/or their authorized representatives, upon the presentation of credentials and such other documents as may be required by law:

- a. To enter upon the permittee's premises where a point source is located or in which any records are required to be kept under the terms and conditions of this permit;
- b. At reasonable times to have access to and copy any records required to be kept under the terms and conditions of this permit;
- c. At reasonable times to inspect any monitoring equipment or monitoring method required in this permit;
- d. At reasonable times to inspect any collection, treatment, pollution management, or discharge facilities required under this permit; and
- e. At reasonable times to sample any discharge of pollutants.

2. Transferability of Permit

A permit shall be transferred to another person by a permittee if:

- a. The permittee notified the Regional Administrator and State Director of the proposed transfer;
- b. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current and new permittee (including acknowledgement that the existing permittee is liable for violations up to that date, and that the new permittee is liable for violations from that date on) is submitted to the Regional Administrator and State Director; and

- c. The Regional Administrator within 30 days does not notify the current permittee and the new permittee of his or her intent to modify, revoke and reissue, or terminate the permit and to require that a new application be filed rather than agreeing to the transfer of the permit.

3. Availability of Reports

Except for data determined to be confidential under Section 308 of the Act and regulations promulgated at 40 CFR 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Regional Administrator. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statement, representation or certification on a report required by this permit, including but not limited to any discharge monitoring report, notice of compliance report, or any record or other document required to be maintained by the permittee under this permit, may result, upon conviction, in imprisonment or the imposition of criminal penalties as provided for in Section 309 of the Act.

4. Permit Modification

After notice and opportunity for a hearing as required by 40 CFR Part 124, this permit may be modified in whole or in part, revoked and reissued, or terminated during its term for cause as specified in 40 CFR 122.31 (44 Federal Register 32912, June 7, 1979). Among the causes specified in that regulation are:

- a. Violation of any term or condition of this permit;
- b. Failure of the permittee to disclose fully all relevant facts or misrepresentation of any relevant facts by the permittee in the application or during the permit issuance process;
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of any authorized discharge; and
- d. Information indicating that the permitted discharge poses a threat to human health or welfare.

5. Toxic Pollutants

Notwithstanding Part II, B.4. above, this permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under Sections 301(b)(2)(C), and (D), 304(b)(2), and 307(a)(2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

- a. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
- b. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

6. Civil and Criminal Liability

Except as provided in permit conditions on "Bypassing" (Part II, A.6.), nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.

7. Oil and Hazardous Substance Liability

The imposition of responsibilities upon, or the institution of any legal action against the permittee under Section 311 of the Act shall be in conformance with regulations promulgated pursuant to Section 311 of the Act governing the applicability of Section 311 to discharges from facilities with NPDES permits.

8. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by Section 510 of the Act. The issuance of this permit does not preempt any duty to obtain State or local assent required by law for the discharge.

9. Property Rights

The issuance of this permit does not convey any property rights of any sort in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

10. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

A. EFFECTIVENESS OF PERMIT

1. This permit shall become effective in its entirety on the date indicated on the first page of this permit unless a request for an evidentiary hearing or a panel hearing is granted pursuant to the provisions of 40 CFR Part 124, Subpart H or I, 44 Federal Register 111, pp. 32938-32947 (June 7, 1979).
2. This permit and the authorization to discharge shall terminate on the expiration date indicated on the first page. In order to receive authorization to discharge beyond the date of expiration, the permittee shall submit such information, forms and fees as are required by the agency responsible for the issuance of NPDES permits no later than 180 days prior to the expiration date.

B. OTHER REQUIREMENTS

- I. Under authority granted to the Department by N.J.S.A., 58:10A-1 et seq., outfall 001 shall be limited and monitored as follows:

A. Chlorine Residual (Total)*

1. Discharge Limitation: .002 mg/l on a 30 day average
2. Monitoring Requirements: A grab sample done quarterly.

*Monitoring program for Chlorine Residual (Total) to terminate after one year if undetected.

- II. The permittee shall discharge so as not to violate the Surface Water Quality Standards for the Arthur Kill, classified as TW-3 waters, set forth in N.J.A.C. 7:9-4 et seq.

The I.S.C. Water Quality Regulations include, but are not limited to, the following provisions:

A. Total Suspended Solids content shall not exceed:

1. 30 mg/l on a 30 consecutive day average.
2. 45 mg/l on a 7 consecutive day average.
3. 50 mg/l on a 6 consecutive hour average.

OTHER REQUIREMENTS (con't)

- IV. The draft permit forwarded to this Department on March 17, 1980, with the provisions in this certification to be included in the final permit, is not in conflict with the applicable approved portions of the Northeast Water Quality Management Plan, developed in accordance with Section 208 of the Act. The NPDES permit will be reviewed at such time as the Northeast Water Quality Management Plan, or applicable portion(s) thereof, are revised and the appropriate modifications to the permit be made at that time.
- V. The permittee shall comply with the Facilities Plan developed for the Linden-Roselle S.A. in accordance with Section 201 of the Act.
- VI. The permittee shall comply with the Sludge Quality Assurance Regulations (N.J.A.C. 7:14-4.1 et seq.).

NAME KUEHNE CHEMICAL COMPANY, INC.
ADDRESS P.O. BOX 534
Linden, NJ 07036

DISCHARGE MONITORING REPORT (DMR)
NPDES (2-16)
NJ-0027707
PERMIT NUMBER
DISCHARGE NUMBER

FEB 18 1981

OMB No. 158-R007.

FACILITY Sodium Hypochlorite Plant
LOCATION Foot of South Wood Ave, Linden, NJ

MONITORING PERIOD
FROM 1980 Aug 31 TO 1980 Dec 1
YEAR MO DAY YEAR MO DAY
(20-21) (22-23) (24-25) (26-27) (28-29) (30-31)

NOTE: Read instructions before completing this form.

PARAMETER (32-37)	X	(3 Card Only) QUANTITY OR LOADING (46-53)			(4 Card Only) QUALITY OR CONCENTRATION (46-53)			NO. EX (62-63)	FREQUENCY OF ANALYSIS (64-68)	SAMPLE TYPE (69-70)
		AVERAGE	MAXIMUM	UNITS	MINIMUM	AVERAGE	MAXIMUM			
Flow	SAMPLE MEASUREMENT	15.7		MGD				0		
	PERMIT REQUIREMENT	N/A							1/90	Grab
Chemical Oxygen Demand	SAMPLE MEASUREMENT						32	0		
	PERMIT REQUIREMENT						39			
							50	mg/l	1/90	Grab
Petroleum Hydrocarbons	SAMPLE MEASUREMENT						<1.0	0		
	PERMIT REQUIREMENT						<1.0			
							10	mg/l	1/180	Grab
Total Suspended Solids	SAMPLE MEASUREMENT		3.0					0		
	PERMIT REQUIREMENT		50	mg/l					1/90	Grab
Temperature	SAMPLE MEASUREMENT						15	0		
	PERMIT REQUIREMENT						30	°C		
									1/90	Grab
Chlorine Residual (Total)	SAMPLE MEASUREMENT	6.5						0		
	PERMIT REQUIREMENT	.002		mg/l					1/90	Grab
PH	SAMPLE MEASUREMENT					8.1		0		
	PERMIT REQUIREMENT				6.0		9.0		1/90	Grab

NAME/TITLE PRINCIPAL EXECUTIVE OFFICER
C. R. Jacobs
Executive Vice President
TYPED OR PRINTED

THIS DOCUMENT IS SIGNED WITH RECOGNITION THAT KNOWINGLY MAKING A FALSE CERTIFICATION ON THIS REPORT OR SUPPORTING DOCUMENTS OR INTENTIONALLY TAMPERING WITH ANY MONITORING DEVICE OR METHOD ARE CRIMINAL OFFENSES. SEE 18 U.S.C. § 1001 AND 33 U.S.C. § 1319. (Penalties under these statutes may be fines up to \$10,000 and/or maximum imprisonment of between 6 months and 5 years.)

Signature of Principal Executive Officer or Authorized Agent
Clifford R. Jacobs

TELEPHONE
201 862-1212
AREA CODE NUMBER
DATE
81 02 10
YEAR MO DAY

COMMENT AND EXPLANATION OF ANY VIOLATIONS (Reference all attachments here)

Cannot account for Chlorine residual but will investigate cause. No upset. Sample submitted for analysis 12-17-80 received 1-14-81. Production at this location as of 1-26-81 is by Linden Chemicals and Plastics. Attached is a copy of analytical data.

GENERAL INSTRUCTIONS

1. If form has been partially completed by preprinting, disregard instructions directed at entry of that information already preprinted.
2. Enter "PERMITTEE NAME/MAILING ADDRESS (and facility name/location, if different)," "PERMIT NUMBER," and "DISCHARGE NUMBER" where indicated. (A separate form is required for each discharge.)
3. Enter dates beginning and ending "MONITORING PERIOD" covered by form where indicated.
4. Enter each "PARAMETER" as specified in monitoring requirements of permit.
5. Enter "SAMPLE MEASUREMENT" data for each parameter under "QUANTITY" and "QUALITY" in units specified in permit. "AVERAGE" is normally arithmetic average (geometric average for bacterial parameters) of all sample measurements for each parameter obtained during "MONITORING PERIOD." "MAXIMUM" and "MINIMUM" are normally extreme high and low measurements obtained during "MONITORING PERIOD." (NOTE to municipalities with secondary treatment requirement, enter 30-day average of sample measurements under "AVERAGE" and enter maximum 7-day average of sample measurements obtained during monitoring period under "MAXIMUM".)
6. Enter "PERMIT REQUIREMENT" for each parameter under "QUANTITY" and "QUALITY" as specified in permit.
7. Under "NO. EX" enter number of sample measurements during monitoring period that exceed maximum (and/or minimum or 7-day average as appropriate) permit requirement for each parameter. If none, enter "0".
8. Enter "FREQUENCY OF ANALYSIS" both as "SAMPLE MEASUREMENT" (actual frequency of sampling and analysis used during monitoring period) and as "PERMIT REQUIREMENT" specified in permit. (e.g., Enter "CONT." for continuous monitoring, "1/7" for one day per week, "1/30" for one day per month, "1/90" for one day per quarter, etc.)
9. Enter "SAMPLE TYPE" both as "SAMPLE MEASUREMENT" (actual sample type used during monitoring period) and as "PERMIT REQUIREMENT." (e.g., Enter "GRAB" for individual sample, "24HC" for 24-hour composite, "N/A" for continuous monitoring, etc.)

(FOLD HERE FIRST)

10. WHERE VIOLATIONS OF PERMIT REQUIREMENTS ARE REPORTED, ATTACH A BRIEF EXPLANATION TO DESCRIBE CAUSE AND CORRECTIVE ACTIONS TAKEN. REFERENCE EACH VIOLATION BY DATE.
11. If "no discharge" occurs during monitoring period, enter "NO DISCHARGE" across form in place of data entry.
12. Enter "NAME/TITLE OF PRINCIPAL EXECUTIVE OFFICER" with "SIGNATURE OF PRINCIPAL EXECUTIVE OFFICER OR AUTHORIZED AGENT," "TELEPHONE NUMBER" and "DATE" at bottom of form.
13. Mail signed Report to Office(s) by date(s) specified in permit. Retain copy for your records.
14. More detailed instructions for use of this DISCHARGE MONITORING REPORT (DMR) form may be obtained from Office(s) specified in permit.

LEGAL NOTICE

This report is required by law (33 U.S.C. 1318; 40 C.F.R. 125.27). Failure to report or failure to report truthfully can result in civil penalties not to exceed \$10,000 per day of violation; or in criminal penalties not to exceed \$25,000 per day of violation, or by imprisonment for not more than one year, or by both.

(FOLD HERE SECOND)

New York, NY 10278

26 Federal Plaza

F.P.A. Region II, Room 432

Chief Permits Administration Branch

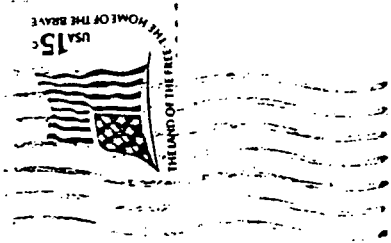
Richard A. Baker



Clifford R. Jacobs
P.O. Box 534
Linden, NJ 07036

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STAPLE HERE



Charles L. Maack, Principal Environmental Engineer, Region II

(u)
Charles L. Johnson, Senior Environmental
Engineer, Region II

FEB 24 1981

Inspection of Kuehne Chemical Company, Inc., Linden

On January 8, 1981, the writer visited the Linden Chlorine Products (LCP) plant in Linden as part of the ongoing investigation of the neighboring Kuehne Chemical Company.

The writer met with Mr. Bill Fledderman, Plant Manager, upon arriving at LCP, and was informed by him that Kuehne Chemical had continued the dumping of caustic material from what Mr. Fledderman thought was a concealed pipe. The writer stated that samples would be taken at several intervals during the day from the flume into which Kuehne supposedly dumps.

Samples were taken at hour intervals from the water in the flume approximately 50 feet from Kuehne's discharge. Split samples were taken by LCP and were tested for a pH, free chlorine and per cent bleach. Listed below is the sample No., time the sample was taken, and the pH of the split sample taken by LCP:

<u>Sample</u>	<u>Time</u>	<u>pH</u>
C12838	1:00 p.m.	10.06
C12839	2:00 p.m.	10.52
C12840	3:10 p.m.	9.19
C12842	4:15 p.m.	4.70
C12844	5:15 p.m.	9.93

At 6:00 p.m., the writer and an LCP representative walked to the Kuehne Chemical discharge point where a strong odor of chlorine was smelled. Sample (C12846) was taken from the flume approximately 3 feet upstream of Kuehne's discharge point. A split sample taken to LCP's lab revealed a pH of 10.40. A sample was then taken from Kuehne's permitted discharge. The discharge was clear and a split sample taken to the LCP lab revealed a pH of 2.62.

Conclusions and Recommendations

Kuehne Chemical Company is dumping acid and caustic material. Enforcement action should be taken immediately.

254:G9

cc: James Musman
Keith Onsdorff

MEMO

NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION

TO ^{CLM} Charles L. Maack, Principal Environmental Engineer, Region II

FROM ^{CLJ} Charles L. Johnson, Senior Environmental Engineer, Region II DATE February 24, 1981

SUBJECT Inspection of Kuehne Chemical Company, Inc., Linden

On January 26, 1981, the writer, accompanied by Mr. John Tomasiello visited Linden Chlorine Products (LCP) in order to observe the excavation of Kuehne Chemical's concealed discharge pipe.

At 2:00 p.m., the inspectors sampled the permitted Kuehne discharge (#2437) and in the flume upstream of said discharge (#12438).

Personnel from LCP then proceeded to excavate the discharge line from Kuehne Chemical to the outfall in the flume by digging with a backhoe adjacent to the flume. No second pipe was found. While digging, ground water was encountered and sampled by LCP. The pH of said water was 11.4. The digging continued and approximately 12 feet from the pipe outfall a large break on the underside of the pipe was uncovered. A large flow of discharge water flowed from this break suggesting that it may be the source of wastewater leaking through the flume walls.

An inspection of Kuehne was made after observing a valve connecting Kuehne's filtering process lines to their discharge line. Mr. Scott L. Charlop, Manufacturing Manager of Kuehne was questioned about the valve and responded by stating that this valve was opened only during the backwash of Kuehne's filtering system. The writer stated that this valve was unacceptable and must be removed.

On January 27, 1981, the writer returned to LCP and Kuehne Chemical to observe further digging of Kuehne's discharge line. The contractor hit a concrete encasement which ran the entire length of the pipe after commencing to dig and therefore halted any further digging. It was then observed by the writer that Kuehne had disconnected the valve in question.

Conclusions and Recommendations:

The writer feels that Kuehne Chemical Company dumped caustic material with the use of the valve in the process valve and acid by pouring hydrochloric acid into their discharge line. This mixing may be the cause of a very strong smell of chlorine gas at Kuehne's discharge on January 8, 1981. The leakage from the walls of the flume was probably caused by the break in the discharge line. Because of the different flow rates involved in the pipe and through the 12 feet of soil, a lag time was shown in the flow of materials (and pH) in the leakage suggesting a possible second pipe. The sampling data obtained by LCP should be expediently coordinated with Division data for use in enforcement action.

E54:G9

cc: James Mumman
Keith Onsdorff

EXHIBIT "H"

IRWIN I. KIMMELMAN
Attorney General of New Jersey
Attorney for the State of New
Jersey, Division of Water Resources
Richard J. Hughes Justice Complex
CN 112
Trenton, New Jersey 08625

By: PRISCILLA E. HAYES
Deputy Attorney General
(609) 292-1500

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW
DOCKET NO. EWR 899-82

IN THE MATTER OF)
)
KUEHNE CHEMICAL COMPANY)

AFFIDAVIT OF CHARLES MAACK

STATE OF NEW JERSEY)
) ss.
COUNTY OF MERCER)

CHARLES MAACK, of full age, being duly sworn according
to law, upon his oath deposes and says:

1. I have been employed by the State of New Jersey,
Department of Environmental Protection ("DEP"), since June 1974.
I am currently employed as a Supervising Environmental Engineer.

2. Starting in January 1981 I was assigned to supervise
enforcement efforts with regard to reported illegal discharges
by Kuehne Chemical Company ("KCC") in Linden, New Jersey, which
rented property for the manufacture of chlorine bleach from
Linden Chlorine Products ("LCP"). KCC and LCP each were author-
ized by separate National Pollutant Discharge Elimination System

("NPDES") permits to discharge into a common flume which flowed into a tributary of the Arthur Kill. KCC's permit allowed one discharge point which was more than 50 feet upstream of the one permitted LCP discharge point. LCP had informed DEP of suspected violations by KCC of its NPDES permit.

3. In the normal course of my employment I was required to become familiar with all DEP files relating to the suspected illegal discharge by KCC, including all NPDES permit files, both State and federal (i.e. files of the federal Environmental Protection Agency ("EPA")). A diligent search of all such files and discussions of same with all relevant federal and State personnel indicates that no inspections of the KCC site or sampling of effluent discharged thereby were done by either DEP or EPA personnel at any time during the process of issuance of the NPDES permit in 1980, and indeed no site visits or sampling were performed at any time until on January 8, 1981, at my direction Charles Johnson went to KCC to sample and inspect. A number of other site visits were performed thereafter by Mr. Johnson and other DEP personnel at my direction.

4. On January 8, 1981, at my direction, Charles Johnson sampled KCC's effluent at its permitted discharge point, i.e. where KCC's discharge pipe emptied into the flume. Due to suspicions that KCC was also discharging by means of a buried discharge point, Mr. Johnson was also directed to take samples from the flume both above and below the KCC discharge point.

5. On January 15, 16, 25 and 26, 1981 Harvey Klein and another employee of Garden State Laboratories supervised the

taking of samples at 1) KCC's discharge point, 2) at a point on the flume bulkhead adjacent to KCC's discharge point at which effluent was leaking through and 3) downstream from the KCC discharge point. Mr. Klein, who initially analyzed these samples as an independent consultant for LCP, and is now serving as a consulting expert for DEP, discovered extremely high pH levels in the samples taken as well as high concentrations of chlorine and caustic, all in violation of the NPDES permit.

6. On October 7, 1981, the DEP issued a Notice of Civil Penalty Assessment which reflected the taking of samples by Mr. Johnson and under the direction of Mr. Klein, and another employee of Garden State Laboratories, both at the KCC discharge point into the flume and at other locations.

Charles L. Maack
CHARLES MAACK

Sworn to and Subscribed before me
this 20th day of August 1985.

Priscilla E. Hayes
Attorney at law of the
State of New Jersey

IRWIN I. KIMMELMAN
Attorney General of New Jersey
Attorney for the State of
New Jersey, Division of
Water Resources
Richard J. Hughes Justice Complex
CN 112
Trenton, New Jersey 08625

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW
DOCKET NO. EWR 899-82

IN THE MATTER OF)
)
KUEHNE CHEMICAL COMPANY)

AFFIDAVIT OF CHARLES JOHNSON

STATE OF CONNECTICUT)
) ss.
COUNTY OF HARTFORD)

CHARLES JOHNSON, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am employed by the State of Connecticut, Department of Environmental Protection, as a Senior Civil Engineer.

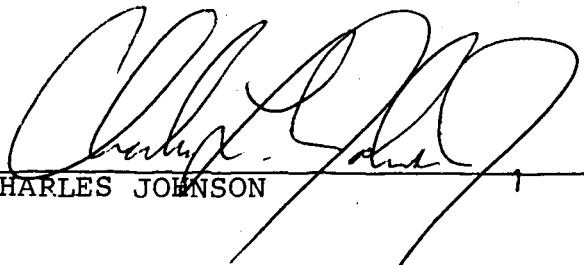
2. From June 1979 to March 1981 I was employed by the State of New Jersey, Department of Environmental Protection ("DEP") as an Environmental Engineer.

3. In January of 1981, I was asked by my supervisor Charles Maack to make a site inspection at Kuehne Chemical Company ("KCC") at the facility it then maintained in Linden, New Jersey. DEP had reason to believe that KCC was discharging effluent with chlorine residual levels and other levels in violation of its NPDES permit. Additionally, DEP suspected that KCC was discharging

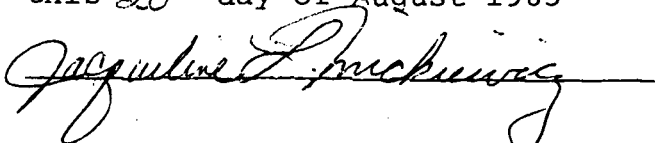
not only through its permitted discharge pipe but also through a buried discharge pipe, due to the fact that discharges were coming through the bulkhead of the flume into which KCC's permitted pipe discharged.

4. On January 8, 1981, I visited the KCC site and took samples at three locations: 1) KCC's discharge point DSN-001, which was at the point that KCC's discharge pipe entered the flume; 2) approximately 50 feet below the discharge point; and 3) three feet upstream from KCC's discharge point. The samples taken downstream and upstream from the discharge point were taken because DEP was trying to find another discharge pipe and what it was discharging. An accurate copy of my report is attached hereto as Exhibit G.

5. On January 8, 1981 and on subsequent visits by me to the KCC site, including visits on January 26 and 27, 1981 to observe the excavation of KCC's discharge pipe, I observed that KCC's discharge flowed over a concrete pad into a shallow manhole and through a concrete pipe to KCC's discharge point, at the flume. During excavations on January 26, 1981 several holes were discovered in the concrete pipe which were allowing KCC's discharge to partially escape into the ground and which apparently explained the flows through the bulkhead of the flume at KCC's discharge point. On January 26, 1981, I also observed a plastic pipe which allowed discharge from the KCC facility into the aforementioned shallow manhole and to KCC's discharge point. A copy of my report concerning these inspections is attached as Exhibit H.


CHARLES JOHNSON

Sworn to and Subscribed before me
this 20th day of August 1985



JACQUELINE L. MICKIEWICZ
NOTARY PUBLIC
MY COMMISSION EXPIRES MARCH 31, 1986

IRWIN I. KIMMELMAN
Attorney General of New Jersey
Attorney for the State of New
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Trenton, New Jersey 08625

By: PRISCILLA E. HAYES
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(609) 292-1500

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW
DOCKET NO. EWR 899-82

IN THE MATTER OF)
)
KUEHNE CHEMICAL COMPANY)

AFFIDAVIT OF EDWARD POST

STATE OF NEW JERSEY)
) ss.
COUNTY OF MERCER)

EDWARD POST, of full age, being duly sworn according
to law, upon his oath deposes and says:

1. I am employed by the State of New Jersey, Department of Environmental Protection ("DEP") as Section Chief, Industrial Surface Discharge Permits, Water Quality Management Element Division of Water Resources. In this position I am responsible for review and administration of permit applications and materials under the New Jersey Pollutant Discharge Elimination System ("NJPDES"). The NJPDES program is a delegation of the National Pollutant Discharge Elimination System, established under the

federal Clean Water Act, 33 U.S.C. §1251 et seq., specifically under 33 U.S.C. §1342.

2. Prior to 1982, the United States Environmental Protection Agency ("EPA") was responsible for drafting and issuing discharge permits for facilities in the State of New Jersey, pursuant to 33 U.S.C. §1342. The EPA was required, however, to submit the draft permit to DEP and the applicant and to obtain a certification of approval of the permit and any comments or additions DEP had for EPA.

3. Prior to 1982, at the stage at which EPA submitted the draft of any NPDES permit to the DEP and the applicant, the EPA also submitted a Statement of Basis, which explained the permit's specific provisions and the basis therefor.

4. Although EPA issued NPDES permits for the State of New Jersey prior to 1982, DEP was empowered to enforce any suspected violations thereof, pursuant to N.J.S.A. 58:10A-1 et seq.

5. In the normal course of my employment I have reviewed all relevant documents contained in the EPA file which pertains to the KCC discharge. Accurate copies of the following documents from the EPA are attached to the accompanying brief: 1) NPDES permit application submitted by KCC in 1974, attached as Exhibit A; 2) Draft permit written by EPA and submitted to DEP for certification and comment and to the applicant for comment, attached as Exhibit B; 3) Statement of Basis for the NPDES permit, submitted to the DEP and the applicant with the draft permit, attached as Exhibit C; 4) the Certification by DEP for the permit, with DEP's comments and additions, attached as

Exhibit D; and 5) the final NPDES permit, with modifications in response to the DEP comments, attached as Exhibit E.

6. KCC's application to EPA reveals that it applied for a NPDES permit for one single discharge point, being the discharge from a single discharge stream or pipe at one specific point.

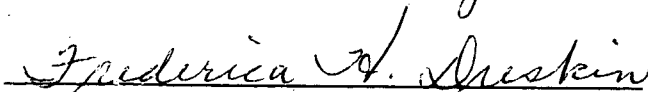
7. The Statement of Basis drafted by EPA reveals that it was anticipated that KCC's permitted discharge would include at least some surface water runoff, as well as the non contact cooling water KCC had reported.

8. Subsequent to receipt of its permit, pursuant to the requirements of the permit, KCC submitted a Discharge Monitoring Report, which reflected analysis of specific parameters listed in the permit and comparison to the permit limitations for each, for the period August 31, 1980 to December 1, 1980. This Discharge Monitoring Report, an accurate copy of which is attached as Exhibit F, shows that KCC had discovered extremely high levels of residual chlorine in its effluent upon self testing.



EDWARD POST

Sworn to and Subscribed before me
this 21st day of August 1985



FREDERICA H. DRESKIN
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Jan. 10, 1989